

April 28, 1999

**MEMORANDUM**

SUBJECT: Guidance for Using the New Streamlined Authorization Procedures for the Approval of Previously Promulgated Rulemakings

FROM: Elizabeth A. Cotsworth, Acting Director /S/  
Office of Solid Waste (5301W)

TO: RCRA Senior Policy Advisors, Regions I - X

The purpose of this memorandum is to reiterate the high priority OSW places on RCRA Subtitle C State authorization by providing guidance that will enhance the use of the streamlined authorization procedure promulgated in the HWIR-media final rule (November 30, 1998, 63 FR 65874). I consider the promulgation and implementation of this new procedure to be a major component of our efforts to speed the authorization of States for the RCRA program.

This new procedure simplifies State authorization applications for minor or routine rules by not requiring a revision to a State's Attorney General's statement, Program Description, and Memorandum of Agreement (MOA) with EPA. The procedure also shortens the authorization process by setting a deadline of 60 days from receipt of a complete application for EPA to publish a Federal Register notice on its authorization decision. This new procedure can be used for rules that are listed in Table 1 to 40 CFR 271.21. We will continue to add new rules to this table as they are published.

As discussed in the preamble to the HWIR-media rule, the existing authorization regulations provide EPA with the flexibility to determine what specific documents must be included in a State's authorization application (see 40 CFR 271.21(b)). EPA also has the programmatic discretion to commit to specific time frames for the review of a State's application, depending on factors such as the scope and significance of the rules addressed in that application. In the HWIR-media preamble, EPA made a commitment to develop guidance which would implement the flexibility in the existing regulations to expedite the authorization of previously promulgated minor or routine rulemakings by following the provisions of the new streamlined procedures.

The attached table lists previously promulgated rulemakings that EPA considers to be routine or minor in nature. In developing this table, EPA took into account the criteria EPA will use to propose to list a new rule in Table 1 of 271.21, the considerations discussed in the preamble regarding the basis and rationale for the new procedures, and EPA's experience in authorizing States for these existing rules. EPA and States may use the timetables and application requirements in the new streamlined authorization process for the rules listed in the table.

OSW is aware that there are additional rulemakings that could be considered to be minor or routine but are not listed in the attached table. For example, rulemakings promulgated before July 1, 1990 are not listed in the table. Many of these rulemakings may meet the criteria for being minor or routine. However, we did not include these rulemakings because most States are already authorized for these rules, and the remaining States are developing large applications that would be inefficient to divide into two separate applications. If there is a specific circumstance where a State wants to pursue streamlined authorization for these earlier rules, the State can ask EPA if these procedures are appropriate.

Also missing from the table are technical corrections to significant rules that have been incorporated into the authorization checklists for the underlying rules. Although these technical corrections would likely be considered as minor or routine on their own, they are not included in the table because States generally receive authorization for them at the same time as the underlying rule. However, if a State received authorization for only the significant rule and not the technical correction, the new streamlined procedures may be used for the corrections.

Note that this guidance does not affect EPA's ability under 40 CFR 271.21(d) to request a supplemental Attorney General's statement, program description, or other documents or information as necessary. However, we expect this will rarely be necessary given the types of regulatory provisions identified in this guidance.

If you or your staff have any questions regarding this guidance, please contact Wayne Roepe, in the Federal, State, and Tribal Programs Branch of the Office of Solid Waste, at (703) 308-8630.

Attachment

cc: Key RCRA Contacts, Regions I - X  
David Nielsen, OECA

**Minor and Routine RCRA Regulations  
July 1, 1990 to December 31, 1998**

<b>Revision Checklist Number</b>	<b>Federal Requirement</b>	<b>FR Reference</b>	<b>Promul- gation Date</b>
80	Toxicity Characteristic; Hydrocarbon Recovery Operations (HSWA)	55 FR 40834	10/5/90
81	Petroleum Refinery Primary and Secondary Oil/Water/Solids Separation Sludge Listings (F037 and F038) (See Revision Checklist 81) (HSWA)	55 FR 46354	11/2/90
83	Land Disposal Restrictions for Third Third Scheduled Wastes; Technical Amendment (HSWA)	56 FR 3864	1/31/91
84	Toxicity Characteristic; Chlorofluoro-carbon Refrigerants (HSWA)	56 FR 5910	2/13/91
86	Removal of Strontium Sulfide From the List of Hazardous Waste; Technical Amendment (Non-HSWA)	56 FR 7567	2/25/91
87	Organic Air Emission Standards for Process Vents and Equipment Leaks; Technical Amendment (See Revision Checklist 79 in HSWA Cluster II) (HSWA)	56 FR 19290	4/26/91
88	Administrative Stay for K069 Listing (Non-HSWA)	56 FR 19951	5/1/91
89	Revision to F037 and F038 Listings (See Revision Checklist 81 in RCRA Cluster I) (HSWA)	56 FR 21955	5/13/91
90	Mining Exclusion III (Non-HSWA)	56 FR 27300	6/13/91
91	Administrative Stay for F032, F034, and F035 Listings (HSWA/Non-HSWA)	56 FR 27332	6/13/91
92	Wood Preserving Listings; Technical Corrections (HSWA/Non-HSWA)	56 FR 30192	7/1/91
94	Burning of Hazardous Waste in Boilers and Industrial Furnaces; Corrections and Technical Amendments I (HSWA/Non-HSWA)	56 FR 32688	7/17/91
95	Land Disposal Restrictions for Electric Arc Furnace Dust (K061) (HSWA)	56 FR 41164	8/19/91
96	Burning of Hazardous Waste in Boilers and Industrial Furnaces; Technical Amendments II (HSWA/Non-HSWA)	56 FR 42504	8/27/91

<b>Revision Checklist Number</b>	<b>Federal Requirement</b>	<b><u>FR</u> Reference</b>	<b>Promul- gation Date</b>
97	Exports of Hazardous Waste; Technical Correction (HSWA)	56 FR 43704	9/4/91
98	Coke Ovens Administrative Stay (HSWA)	56 FR 43874	9/5/91
99	Amendments to Interim Status Standards for Downgradient Ground-Water Monitoring Well Locations (Non-HSWA)	56 FR 66365	12/23/91
100	Liners and Leak Detection Systems for Hazardous Waste Land Disposal Units (HSWA/Non-HSWA)	57 FR 3462	1/29/92
101	Administrative Stay for the Requirement That Existing Drip Pads be Impermeable (HSWA/Non-HSWA)	57 FR 5859	2/18/92
102	Second Correction to the Third Third Land Disposal Restrictions (HSWA)	57 FR 8086	3/6/92
103	Hazardous Debris Case-by-Case Capacity Variance (HSWA)	57 FR 20766	5/15/92
104	Oil Filter Exclusion (HSWA)	57 FR 21524	5/20/92
105	Recycled Coke By-Product Exclusion (HSWA)	57 FR 27880	6/22/92
106	Lead-Bearing Hazardous Materials Case-by-Case Capacity Variance (HSWA)	57 FR 28628	6/26/92
107	Used Oil Filter Exclusion Corrections (HSWA)	57 <u>FR</u> 29220	7/1/92
108	Toxicity Characteristic Revisions (HSWA)	57 <u>FR</u> 30657	7/10/92
110	Coke-By-Products Listings (HSWA)	57 <u>FR</u> 37284	8/18/92
111	Boilers and Industrial Furnaces; Technical Amendment III (HSWA/Non-HSWA)	57 <u>FR</u> 38558	8/25/92
113	Consolidated Liability Requirements (Non-HSWA):	57 <u>FR</u> 42832	9/16/92
114	Boilers and Industrial Furnaces; Technical Amendment IV (HSWA/Non-HSWA)	57 <u>FR</u> 44999	9/30/92
115	Chlorinated Toluenes Production Waste Listing (HSWA)	57 <u>FR</u> 47376	10/15/92
116	Hazardous Soil Case-by-Case Capacity Variance (HSWA)	57 <u>FR</u> 47772	10/20/92
117A	Reissuance of the "Mixture" and "Derived-From" Rules (Non-HSWA/HSWA)	57 <u>FR</u> 49278	10/30/92
117B	Toxicity Characteristic Amendment (HSWA)	57 <u>FR</u> 23062	6/1/92

<b>Revision Checklist Number</b>	<b>Federal Requirement</b>	<b>FR Reference</b>	<b>Promul-gation Date</b>
118	Liquids in Landfills II (HSWA)	57 <u>FR</u> 54452	11/18/92
119	Toxicity Characteristic Revision; TCLP Correction (HSWA)	57 <u>FR</u> 55114	11/24/92
120	Wood Preserving; Amendments to Listings and Technical Requirements (HSWA/Non-HSWA)	57 <u>FR</u> 61492	12/24/92
123	Land Disposal Restrictions; Renewal of the Hazardous Waste Debris Case-by-Case Capacity Variance (HSWA)	58 <u>FR</u> 28506	5/14/93
124	Land Disposal Restrictions for Ignitable and Corrosive Characteristic Wastes Whose Treatment Standards Were Vacated (HSWA)	58 <u>FR</u> 29860	5/24/93
125	Boilers and Industrial Furnaces; Changes for Consistency with New Air Regulations (HSWA/Non-HSWA)	58 <u>FR</u> 38816	7/20/93
127	Boilers and Industrial Furnaces; Administrative Stay and Interim Standards for Bevill Residues (HSWA)	58 <u>FR</u> 59598	11/9/93
128	Wastes From the Use of Chlorophenolic Formulations in Wood Surface Protection (Non-HSWA)	59 <u>FR</u> 458	1/4/94
129	Revision of Conditional Exemption for Small Scale Treatability Studies (Non-HSWA)	59 <u>FR</u> 8362	2/18/94
131	Recordkeeping Instructions; Technical Amendment (Non-HSWA)	59 <u>FR</u> 13891	3/24/94
132	Wood Surface Protection; Correction (Non-HSWA)	59 <u>FR</u> 28484	6/2/94
133	Letter of Credit Revision (Non-HSWA)	59 <u>FR</u> 29958	6/10/94
134	Correction of Beryllium Powder (P015) Listing (Non-HSWA)	59 <u>FR</u> 31551	6/20/94
135	Recovered Oil Exclusion (Non-HSWA)	59 <u>FR</u> 38536	7/28/94
136	Removal of the Conditional Exemption for Certain Slag Residues (HSWA)	59 <u>FR</u> 43496	8/24/94
137	Universal Treatment Standards and Treatment Standards for Organic Characteristic Wastes and Newly Listed Waste (HSWA/Non-HSWA)	59 <u>FR</u> 47982	9/19/94
139	Testing and Monitoring Activities Amendment I (Non-HSWA)	60 <u>FR</u> 3089	1/13/95

<b>Revision Checklist Number</b>	<b>Federal Requirement</b>	<b>FR Reference</b>	<b>Promul-gation Date</b>
140	Carbamate Production Identification and Listing of Hazardous Waste (HSWA)	60 <u>FR</u> 7824	2/9/95
141	Testing and Monitoring Activities Amendment II (Non-HSWA)	60 <u>FR</u> 17001	4/4/95
144	Removal of Legally Obsolete Rules (HSWA/Non-HSWA)	60 <u>FR</u> 33912	6/29/95
145	Liquids in Landfills III (HSWA)	60 <u>FR</u> 35703	7/11/95
150	Recovered Oil Exclusion, Correction (Non-HSWA)	61 <u>FR</u> 13103	3/26/96
152	Imports and Exports of Hazardous Waste: Implementation of OECD Council Decision (HSWA)	61 <u>FR</u> 16290	4/12/96
153	Conditionally Exempt Small Quantity Generator Disposal Options Under Subtitle D (HSWA)	61 <u>FR</u> 34252	7/1/96
155	Land Disposal Restrictions Phase III-- Emergency Extension of the K088 Capacity Variance (HSWA)	62 <u>FR</u> 1992	1/14/97
158	Testing and Monitoring Activities Amendment III (Non-HSWA)	62 <u>FR</u> 32452	6/13/97
159	Carbamate Production, Identification and Listing of Hazardous Waste; Land Disposal Restrictions (Conformance With the Carbamate Vacatur) (HSWA)	62 <u>FR</u> 32974	6/17/97
160	Land Disposal Restrictions Phase III-- Emergency Extension of the K088 National Capacity Variance, Amendment	62 <u>FR</u> 37694	7/14/97
161	Emergency Revision of the Carbamate Land Disposal Restrictions	62 <u>FR</u> 45568	8/28/97
162	Clarification of Standards for Hazardous Waste Land Disposal Restriction Treatment Variances	62 <u>FR</u> 64504	12/5/97
163	Amendment to Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers	62 <u>FR</u> 64636	12/8/97
164	Kraft Mill Steam Stripper Condensate Exclusion	63 <u>FR</u> 18504	4/15/98
165	Organobromine Production Wastes	63 <u>FR</u> 24596	5/4/98
166	Recycled Used Oil Management Standards; Technical Correction and Clarification	63 <u>FR</u> 24963	5/6/98

168	Hazardous Waste Combustors Revised Standards	63 <u>FR</u> 33782	6/19/98
170	Land Disposal Restrictions Phase IV -- Zinc Micronutrient Fertilizers, Administrative Stay	63 <u>FR</u> 46332	8/31/98
171	Emergency Revision of the Land Disposal Restrictions (LDR) Treatment Standards for Listed Hazardous Wastes from Carbamate Production	63 <u>FR</u> 47409	9/4/98
172	Land Disposal Restrictions Phase IV -- Extension of Compliance Date for Characteristic Slags	63 <u>FR</u> 48124	9/9/98
173	Land Disposal Restrictions; Treatments Standards for Spent Potliners From Primary Aluminum Reduction (K088)	63 <u>FR</u> 51254	09/24/98
176	Universal Waste Rule: Amendment, Correction	63 <u>FR</u> 71225	12/24/98